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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,436	08/21/2003	Martin Gleave	UBC.P-030	9171
57381	7590	03/02/2006	EXAMINER	
Marina Larson & Associates, LLC P.O. BOX 4928 DILLON, CO 80435			CHONG, KIMBERLY	
			ART UNIT	PAPER NUMBER
			1635	
DATE MAILED: 03/02/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/646,436	Applicant(s) GLEAVE ET AL.	
	Examiner Kimberly Chong	Art Unit 1635	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered ~~and an explanation of how the new or amended claims would be rejected is provided below or appended.~~

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: 4, 14, 31 and 33.

Claim(s) rejected: 1-3 and 10-13.

Claim(s) withdrawn from consideration: _____

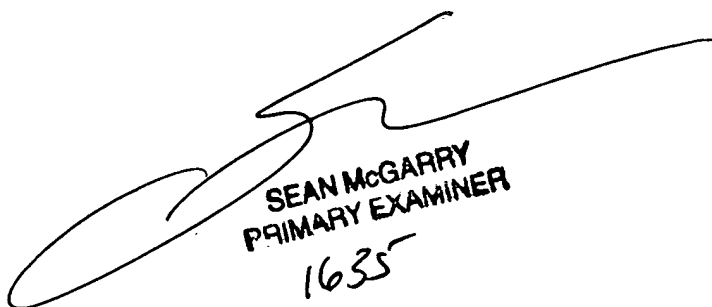
AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive with regard to the claims being anticipated by Monia et al. (U.S. Patent No. 6,383,808). Applicant argues Monia et al. does not provide an enabling disclosure of the invention as claimed. Applicant argues Monia et al. does not disclose "even one actual RNA sequence" and therefore only provides an "invitation to experiment". This is not found persuasive because Applicant has not provided a reason why Monia et al. is not enabling and further there is no evidence on record that shows why the RNA oligonucleotides targeted to clusterin, as disclosed by Monia et al. do not mediate degradation or block translation of clusterin mRNA. Applicant's claimed invention is drawn to an RNA molecule targeted to a clusterin gene and it must be noted that Applicant has not claimed a specific RNA sequence, by SEQ ID NO., that targets clusterin (see claim 1 for example). Therefore, the rejection of claims 1-3 and 10-13 is maintained as being anticipated by Monia et al. Applicant argues claims 10 and 11 should be afforded the filing date of Provisional application 60/472,387 filed on 05/20/2003 because the provisional application discloses SEQ ID NO. 10. Claims 10 and 11 are not claiming SEQ ID NO. 10 and therefore the rejection of record of claims 10 and 11 as being anticipated by Monia et al. under 35 U.S.C. 102 (b) is maintained for the reasons in the previous final rejection filed 1/9/2006. Applicant's amendments filed 02/16/2006 have been entered however they are not sufficient to overcome the objection to claims 4, 14, 31 and 33 because the claims still contain non-elected subject matter and are still dependent on a rejected base claim.



SEAN MCGARRY
PRIMARY EXAMINER
1635